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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 DAVID HOWELL,

Case No. 3:19-cv-00202-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 BLAIN BEARD, *et al.*,

10 Defendants.
11

12 *Pro se* Plaintiff David Howell submitted a civil rights complaint (“Complaint”) pursuant to 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. (ECF Nos. 13 1-1, 1.) On February 27, 2020, this Court issued an order denying Plaintiff’s application to 14 proceed *in forma pauperis* because Plaintiff had “three strikes” pursuant to 28 U.S.C. 15 § 1915(g). (ECF No. 3.) The Court informed Plaintiff that if he did not pay the \$400.00 filing 16 fee in full within 30 days of the date of that order, the Court would dismiss the action 17 without prejudice. (*Id.* at 2.) The 30-day period has now expired, and Plaintiff has not paid 18 the full filing fee of \$400.00. 19

20 District courts have the inherent power to control their dockets and “[i]n the exercise 21 of that power, they may impose sanctions including, where appropriate . . . dismissal” of a 22 case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). 23 A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an 24 action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. 25 Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (affirming dismissal for noncompliance with local 26 rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (affirming dismissal for 27 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 28 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule

1 requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*
2 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with
3 court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming
4 dismissal for lack of prosecution and failure to comply with local rules).

5 In determining whether to dismiss an action for lack of prosecution, failure to obey
6 a court order, or failure to comply with local rules, the Court must consider several factors:
7 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to
8 manage its docket; (3) the risk of prejudice to the Defendants; (4) the public policy favoring
9 disposition of cases on their merits; and (5) the availability of less drastic alternatives. See
10 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
11 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

12 Here, the Court finds that the first two factors, the public's interest in expeditiously
13 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
14 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
16 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
17 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
18 disposition of cases on their merits—is greatly outweighed by the factors in favor of
19 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
20 court's order will result in dismissal satisfies the “consideration of alternatives”
21 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d
22 at 1424. The Court's order requiring Plaintiff to pay the full filing fee within 30 days
23 expressly stated: “It is further ordered that this action will be dismissed without prejudice
24 unless Plaintiff pays the \$400.00 filing fee in full within 30 days of entry of this order.” (ECF
25 No. 3 at 2.) Thus, Plaintiff had adequate warning that dismissal would result from his
26 noncompliance with the Court's order to pay the full filing fee within 30 days.

27 It is therefore ordered that this action is dismissed without prejudice based on
28 Plaintiff's failure to pay the \$400.00 filing fee in compliance with this Court's February 27,

1 2020, order.

2 It is further ordered that the Clerk of Court shall close the case and enter judgment
3 accordingly.

4 DATED THIS 6th day of April 2020.



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7 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE
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